IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3086 OF 2006

Gulam Ahmed M. Khan & others Applicants
versus
The State of Maharashtra Respondent

Balasaheb Deshmukh i/by Smt.Aparna More for applicants.

S.S.Pednekar, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22nd August 2006

PC :

1. The applicant apprehends arrest in connection with C.R.No.291 of 2006 registered at Wanori Taluka Police Station. The offences alleged are under sections 457 and 454 of IPC..

2. The applicant has filed a civil suit being RCS No.951 of 2006 in the Court of Civil Judge, Senior Division, Pune. The said suit is pending.

3. From a perusal of the application and the annexures thereto it appears to be a case where there is a breach of contract by the

builder-original complainant inasmuch as he has failed to hand over and deliver possession of the flats which have been booked by the applicants and others in a building which was to be constructed upon a plot of land.

4. From a perusal of the materials it appears to be a case where the parties are alleging that despite the consideration being paid, the work has not been completed at site, and, therefore, there was an alleged agreement to complete the said works with some other agency. When the applicants allegedly got the work completed through some other agency and obtained possession of the flats allotted to them, the complainant intervened and the alleged incident took place.

5. This is not a matter where the applicants can be said to be guilty of any criminal offence. The disputes are essentially civil in nature. The other accused has been enlarged on bail and my attention is invited to an order passed in Criminal Miscellaneous Application No.1717 of 2006 by the Additional Sessions Judge, Pune allowing the anticipatory bail application of Dr.Mukhtar Ahmed Ansari who is accused no.2. The applicant is also arrayed as accused no.1 in the

same incident and identical allegations are levelled against him.

6. In such circumstances, the application for pre-arrest bail deserves to be granted. Accordingly following order.

7. ORDER :-

(i) In the event of the arrest of the applicant in connection with C.R.No.291 of 2006 registered with Wanori Police Station, the applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- (Rs.Fifteen thousand only) with one or two local sureties in the like sum;

(ii) The bail is granted subject to condition that the applicant will attend the concerned Police Station as and when summoned by concerned Police Station;

(iii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in the above

terms.

(S.C.DHARMADHIKARI, J.)